

AN ACT Relating to Drug Medicalization, Abuse Prevention and Control; and Providing for an Effective Date.

Be it enacted by the People of the State of Alaska:

Section 1. TITLE

This Act shall be known, and may be cited as, the "Drug Medicalization, Abuse Prevention and Control Act of 1998."

Section 2. FINDINGS AND DECLARATIONS

The People of the State of Alaska find and declare the following:

- (1) Alaska's current approach to drug abuse control needs to be strengthened. In addition to actively enforcing our criminal laws against drugs, we need to medicalize Alaska's drug control policy; recognizing that drug abuse is a costly public health problem and needs to be treated as a disease. Thus drug abuse treatment and prevention must be expanded.
- (2) We must also toughen Alaska's laws against violent criminals on drugs. Any person who commits a violent crime while under the influence of illegal drugs should serve one half of their sentence before being considered for parole.
- (3) Alaskans suffer from debilitating disease's such as cancer, glaucoma, multiple sclerosis, and AIDS but cannot have access to all the necessary drugs they need. Allowing doctors to prescribe medical marijuana could save victims of these diseases from loss of sight, loss of physical capacity, and greatly reduce the pain and suffering of the seriously ill and terminally ill.
- (4) The drug abuse problems of non-violent persons who are convicted of personal possession or use of illegal drugs are best handled through court supervised drug abuse treatment and education programs. These programs are more effective than locking non-violent offenders up in a costly prison. Pilot programs in the state of Arizona that provide treatment alternatives to prison for low level illegal drug offenders had a 73% success rate and cost roughly 1/8 as much as prison. Over the next two decades millions of dollars can be saved by using mandatory illegal drug abuse treatment and education programs as an alternative to prison.
- (5) Due to the continued costly over-crowding of Alaska's prison system, Alaskan's contract to incarcerate inmates in Arizona, while trying to expand existing facilities here. Placing non-violent persons who are convicted of personal possession or use of illegal drugs in court supervised drug abuse treatment and education programs will free up space in our prisons so that there is more capacity to incarcerate violent offenders.
- (6) The tax dollars saved by eliminating prison time for non-violent persons convicted of personal possession or use of illegal drugs should be used for illegal drug abuse treatment and education.

- (7) Alaska's courts have held that AS 11.71.190 (b) is unconstitutional.
- (8) Alaska's most valuable resource, our children, must be denied any use of non-medical drugs.
- (9) Existing laws pertaining to the illegal use of drugs or tobacco by minors must be strictly enforced.

Section 3. PURPOSE AND INTENT

The People of the State of Alaska declare their purposes to be as follows:

- (1) To require that any person who commits a violent aggravated crime while under the influence of illegal drugs not be eligible for parole as soon as non-violent offenders and must serve at least half of their sentence before being eligible for parole.
- (2) To permit doctors to prescribe marijuana to treat a disease, or to relieve the pain and suffering of seriously ill and terminally ill patients.
- (3) To require that non-violent persons convicted of personal possession or use of illegal drugs successfully undergo court supervised mandatory drug abuse treatment programs along with probation.
- (4) To require that non-violent persons currently in prison for personal possession or use of illegal drugs, and not serving a concurrent sentence for another crime, or previously convicted or sentenced or subject to sentencing under any habitual criminal statute in any jurisdiction in the United States, be made eligible for immediate parole and drug abuse treatment, education, and community service.
- (5) To free up space in our prisons and to provide more room for violent offenders.
- (6) To expand drug abuse intervention and treatment programs which divert drug law offenders from prison to abuse treatment, education, and community service.
- (7) To preserve the privacy rights and privileges of responsible and law-abiding adult citizens of Alaska, as provided in the state constitution.

Section 4. DEFINITION

As used in this Act -

- (1) the term "violent crime" means any criminal act which results in death or physical injury or any criminal use of weapons or dangerous instruments;

Section 5. DRUG MEDICALIZATION, ABUSE PREVENTION AND CONTROL

- (1) Title 12 Chapter 55 Section 090 is amended by adding AS 12.55.090(d) to read as follows:

(d) If the crime being punished was a violent crime performed while under the influence of illegal drugs, then probation is not available until at least half of the sentence has been served.

(2) AS 11.71.190 (b) is hereby repealed.

(3) AS 11.76.100 is hereby amended by adding AS 11.76.100 (g) - (h) to read as follows:

(g) **Selling or giving marijuana to a minor.** A person commits the offense of selling or giving marijuana to a minor if the person knowingly sells, exchanges or gives marijuana or a product containing marijuana to a person under 19 years of age except as authorized in AS 17.30 for filling valid prescriptions for medicinal purposes only.

(h) **Selling or giving non-medicinal marijuana to a minor is a Class B misdemeanor.**

(4) AS 11.76.105 is amended by adding AS 11.76.105 (c) to read as follows:

(c) A person under 19 years of age may not purchase marijuana or a product containing marijuana in this state except under a valid prescription from a physician licensed to practice in Alaska. Non-medicinal purchase of marijuana by a minor is a violation and is punishable by a fine of (or community service work equivalent to)

(1) not less than \$100 for the first offense; or

(2) not less than \$300 for each subsequent offense.

(5) AS 12.55.085 is amended by adding AS 12.55.085 (g) to read as follows:

(g) If a non-violent defendant is sentenced for the personal possession or use (not sale) of illegal drugs, the sentence imposed must be a suspended imposition of sentence with probation following successful completion of a court supervised mandatory drug abuse treatment or education program. Prison terms or other sanctions may be imposed for those that do not successfully complete both program and probation.

(6) AS 12.55 is amended by adding AS 12.55.081 to read as follows:

Sec. 12.55.081. Release, Parole and Treatment of Non-Violent Drug Offenders. (a) Upon passage of this Act, qualified drug offenders currently in prison shall be eligible for parole with entry into a court supervised mandatory drug abuse treatment or education program.

(b) Such qualification is limited (i) to: non-violent persons; currently in jail; not serving a concurrent sentence for another crime; nor previously convicted or sentenced or subject to sentencing under any habitual criminal statute in any jurisdiction in the United States, (ii) that were sentenced for personal possession or use (not sale) of a controlled substance.

(c) Parole is subject to the usual screening process involving input from concerned parties such as the District Attorneys Office that prosecuted the case. If the Parole Board determines that a prisoner so eligible would be a danger to the general public, that prisoner shall not be released on parole.

(d) Early and continued release on parole is contingent upon entry, successful compliance with, and attainment of the goals of, a court supervised mandatory drug abuse treatment

or education program. Payment of costs for participation in the program shall be required to the extent of his or her financial ability.

(7) AS 08.80 is amended by adding AS 08.80.355 to read as follows:

Sec. 08.80.355. Sale of Marijuana for medicinal purposes. A pharmacy or pharmacy drug department may sell marijuana prescribed by licensed physicians.

(8) AS 08.64 is amended by adding AS 08.64.369 to read as follows:

Sec. 08.64.369. Prescription or administration of marijuana by physicians.

(a) A physician may not be subject to disciplinary action by the State Medical Board for prescribing or administering marijuana to a patient under the physician's care who has authorized the substance.

(b) A hospital or health facility may not interfere with the physician-patient relationship by restricting or forbidding the use of marijuana when prescribed or administered by a physician and authorized by a patient.

Section 6. SEVERABILITY

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

Section 7. EFFECTIVE DATE

This Act shall take effect when approved by a majority of the qualified electors voting thereon and immediately upon certification thereto by the Lieutenant Governor of the State of Alaska.